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December 4, 2009

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20423-0001

ENTERED
Office of Proceedings
DEC - 4 2009
Part of
Public Record

Re: **Finance Docket No. 35324**
Teck Metals Ltd. -- Petition for Declaratory Order --
Practices of Wheeling & Lake Erie Railway Company

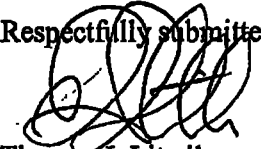
Dear Chief Brown:

Wheeling & Lake Erie Railway Company ("W&LE") hereby replies to the Petition for Declaratory Order filed in the above-captioned proceeding by Teck Metals Ltd. ("Teck"). As Teck's petition notes, this matter is on referral to the Board from the United States District Court for the Northern District of Ohio in a demurrage collection action involving W&LE and Teck. See Wheeling & Lake Erie Ry. Co. v. Teck Cominco Metals, Ltd., No. 5:09CV1184 (N.D. Ohio, October 29, 2009) (attached as Appendix 4 to the Teck Petition). As such, W&LE concurs in the institution of a declaratory order proceeding before the Board.

W&LE denies that its efforts to assess demurrage charges against Teck for Teck cars held en route on W&LE's lines constitute an unreasonable practice under 49 U.S.C. § 10702.

W&LE concurs in the procedural schedule proposed by Teck to govern this proceeding.

Respectfully submitted,


Thomas J. Litwiler
Attorney for Wheeling & Lake Erie
Railway Company

TJL:tl

cc: Kelvin J. Dowd, Esq.